

STEPHAN C. VOLKER (CSB #63093)
JOSHUA A.H. HARRIS (CSB #222886)
LAW OFFICES OF STEPHAN C. VOLKER
436 14th Street, Suite 1300
Oakland, CA 94612
Tel: 510.496.0600
Fax: 510.496.1366
Email: svolker@volkerlaw.com
Email: jharris@volkerlaw.com
Attorneys for Plaintiffs

ROCHELLE L. RUSSELL (CSB #244992)
UNITED STATES DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION
301 Howard Street, Suite 1050
San Francisco, CA 94105
Tel: 415.744.6485
Fax: 415.744.6476
Email: rochelle.russell@usdoj.gov
Attorney for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NORTH COAST RIVERS ALLIANCE, a non-
profit, unincorporated association, et. al,

Plaintiffs,

v.

LISA P. JACKSON, Administrator, United States
Environmental Protection Agency, et. al,

Defendants.

Case No. 08-cv-05328 SBA

**STIPULATION TO DISMISS COMPLAINT
WITH PREJUDICE**

AND

[PROPOSED] ORDER THEREON

Fed. R. Civ. P. 41(a)(1)(A)(ii)

1 WHEREAS on December 18, 2008, Plaintiffs filed the instant lawsuit, challenging EPA's
2 decisions to grant emergency exemptions under Section 18 of the Federal Insecticide, Fungicide and
3 Rodenticide Act ("FIFRA"), 7 U.S.C. § 136p, for the use of two pesticides, CheckMate LBAM-F and
4 CheckMate OLR-F, to control the light brown apple moth in California;

5 WHEREAS on April 16, 2009, EPA revoked the challenged emergency exemptions because an
6 alternative, registered pesticide product had recently become available for the same use authorized by
7 the emergency exemptions;

8 WHEREAS the parties agree that EPA's revocations have rendered this case moot, and that the
9 Complaint should therefore be dismissed with prejudice;

10 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties, through
11 their undersigned counsel, that Plaintiffs' Complaint be and hereby is dismissed with prejudice
12 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear its own fees and
13 costs with respect to this action, and all rights of appeal are waived.

14
15 Respectfully submitted,

16 Dated: May 11, 2009

/s/ Stephan C. Volker
STEPHAN C. VOLKER
Attorney for Plaintiffs

18 Dated: May 11, 2009

19 JOHN C. CRUDEN
Acting Assistant Attorney General
Environment & Natural Resources Division
20
21 /s/ Rochelle L. Russell
ROCHELLE L. RUSSELL
Attorney, U.S. Department of Justice
Environment & Natural Resources Division
22
23 *Attorney for Defendants*

24
25 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26 Dated: 5/12/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

28
STIPULATION TO DISMISS COMPLAINT
WITH PREJUDICE